

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
BRITTAIN J. PURCELLE,**

Plaintiff,

**9:18-cv-77
(GLS/TWD)**

v.

JOHN THOMAS et al.

Defendants.

APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF:

Brittain J. Purcelle
Pro Se
14-B-0600
Clinton Correctional Facility
P.O. Box 2001
Dannemora, NY 12929

FOR DEFENDANTS:

HON. LETITIA JAMES
New York State Attorney General
300 South State Street, Suite 300
Syracuse, NY 13202

WILLIAM E. ARNOLD, IV
Assistant Attorney General

**Gary L. Sharpe
Senior District Judge**

ORDER

The above-captioned matter comes to this court following an Order and Report-Recommendation (R&R) by Magistrate Judge Thérèse Wiley

Dancks, duly filed on March 6, 2020. (Dkt. No. 111.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections¹ having been filed, and the court having reviewed the R&R for clear error, it is hereby

ORDERED that the Order and Report-Recommendation (Dkt. No. 111) is **ADOPTED** in its entirety; and it is further

ORDERED that defendants' motion for partial summary judgment (Dkt. No. 96) is **GRANTED**; and it is further

ORDERED that all claims against Doe defendants are **DISMISSED without prejudice**; and it is further

ORDERED that all claims against defendants Kooi, Brian Bauersfield, Donald Venetozzi, Nurse A. Hoppins are **DISMISSED**; and it is further

ORDERED that only an Eighth Amendment excessive force claim

¹ On March 6, 2020, the Clerk mailed a copy of the R&R to Purcelle at the address listed on the docket. The Clerk noticed that, in another matter pending in this district, *Purcelle v. Rovelli*, No. 9:19-cv-405 (GLS/ML), the following address was provided in a declaration of service for Purcelle: Volunteers of America, 320 Chenango St., Binghamton, NY 13902. (Dkt. No. 39, No. 9:19-cv-405.) On March 11, 2020, the Clerk provided a copy of the R&R to Purcelle at that address. On March 12, 2020, the copy of the R&R sent to Purcelle's original address was returned with the hand-written notation: "Released." (Dkt. No. 112.) It appears that Purcelle has failed to apprise the court of his address with the filing of a notice of change of address as required by Local Rules 10.1(c)(2) and 41.2(b).

against defendant John Thomas remains; and it is further

ORDERED that the Clerk shall **TERMINATE** Kooi, Bauersfield, Venetozzi, Hoppins, and Doe defendants as parties; and it is further

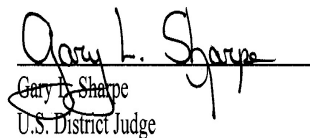
ORDERED that plaintiff shall, by April 17, 2020, submit his current address to the court, or verify that his mailing address is as listed in the caption of this order; and it is further

ORDERED that, if plaintiff fails to comply, the court will *sua sponte* dismiss this action for failure to notify the court of his address change, failure to prosecute, and failure to comply with this Order; and it is further

ORDERED that the Clerk provide a copy of this Order to plaintiff in accordance with the Local Rules of Practice at his address of record and at the alternate address: Volunteers of America, 320 Chenango St., Binghamton, NY 13902.

IT IS SO ORDERED.

March 30, 2020
Albany, New York


Gary L. Sharpe
U.S. District Judge